

STATE North Dakota GENERAL _____ BLIND _____ COMBINED X

PAGE 1

**STATE PLAN FOR THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM
AND
STATE PLAN SUPPLEMENT FOR THE STATE SUPPORTED EMPLOYMENT SERVICES PROGRAM**

STATE: NORTH DAKOTA

AGENCY: DISABILITY SERVICES DIVISION

AGENCY TYPE: GENERAL _____ BLIND _____ COMBINED X

SECTION 1: LEGAL BASIS AND STATE CERTIFICATIONS

- 1.1 The Disability Services Division (name of designated State agency or designated State unit) is authorized to submit this State plan under title I of the Rehabilitation Act of 1973, as amended¹ and its supplement under title VI, part B of the Act.²
- 1.2 As a condition for the receipt of Federal funds under title I, part B of the Act for the provision of vocational rehabilitation services, the North Dakota Department of Human Services (name of the designated State agency)³ agrees to operate and administer the State Vocational Rehabilitation Services Program in accordance with the provisions of this State plan⁴, the Act, and all applicable regulations⁵, policies, and procedures established by the Secretary. Funds made available under section 111 of the Act are used solely for the provision of vocational rehabilitation services under title I and the administration of this State plan.
- 1.3 As a condition for the receipt of Federal funds under title VI, part B of the Act for supported employment services, the designated State agency agrees to operate and administer the State Supported Employment Services Program in accordance with the provisions of the supplement to this State plan⁶, the Act, and all applicable regulations⁷, policies, and procedures established by the Secretary. Funds made available under title VI, part B are used solely for the provision of supported employment services and the administration of the supplement to the title I State plan.

- 1.4 The designated State agency and/or the designated State unit has the authority under State law to perform the functions of the State regarding this State plan and its supplement.
- 1.5 The State legally may carry out each provision of the State plan and its supplement.
- 1.6 All provisions of the State plan and its supplement are consistent with State law.
- 1.7 The Director, Disability Services Division (title of State officer) has the authority under State law to receive, hold, and disburse Federal funds made available under this State plan and its supplement.
- 1.8 The Director, Disability Services Division (title of State officer) has the authority to submit this State plan for vocational rehabilitation services and the State plan supplement for supported employment services.
- 1.9 The agency that submits this State plan and its supplement has adopted or otherwise formally approved the plan and its supplement.
- 1.10 The effective date of this State plan and its supplement is OCTOBER 1, 2006.

(Signature)

Yvonne M. Smith
(Typed Name of Signatory)

(Date)

Director, Disability Services Division
(Title)

¹ Public Law 93-112, as amended by Public Laws 93-516, 95-602, 98-221, 99-506, 100-630, 102-569, 103-073, and 105-220.

² Unless otherwise stated, "Act" means the Rehabilitation Act of 1973, as amended.

- ³ All references in this plan to "designated State agency" or to "the State agency" relate to the agency identified in this paragraph.
- ⁴ No funds under title I of the Act may be awarded without an approved State plan in accordance with section 101(a) of the Act and 34 CFR part 361.
- ⁵ Applicable regulations include the Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 76, 77, 79, 80, 81, 82, 85, and 86 and the State Vocational Rehabilitation Services Program regulations in 34 CFR part 361.
- ⁶ No funds under title VI, part B of the Act may be awarded without an approved supplement to the title I State plan in accordance with section 625(a) of the Act.
- ⁷ Applicable regulations include the EDGAR citations in footnote 5, 34 CFR part 361, and 34 CFR part 363.

SECTION 2: PUBLIC COMMENT ON STATE PLAN POLICIES AND PROCEDURES

- 2.1 Public participation requirements.** (Section 101(a)(16)(A) of the Act; 34 CFR 361.20(a)(1) and (2), (b), and (d), and 363.11(g)(9))
- (a)** The designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan and supported employment services under the supplement to the State plan, including making any amendment to such policies and procedures, conducts public meetings throughout the State to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consults with the Director of the client assistance program carried out under section 112 of the Act, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures.

EFFECTIVE DATE: October 1, 2006

- (b) The designated State agency provides adequate notice of the meetings in accordance with State law governing public meetings, or, in the absence of such State law, in accordance with procedures developed by the State agency in consultation with the State Rehabilitation Council, if the agency has a Council.

2.2 State review process. (34 CFR Part 79)

If the State plan, its supplement, or amendment to the State plan is subject to the State review process, such materials are reviewed and commented on in accordance with the provisions of Executive Order 12372, and comments provided by the State review process are transmitted to the Rehabilitation Services Administration.

This State plan and its supplement are subject to the State review process.

Yes X No

SECTION 3: SUBMISSION OF THE STATE PLAN AND ITS SUPPLEMENT

3.1 Submittal of the State plan, its supplement, and revisions to the plan and its supplement. (Sections 101(a)(1), (23) and 625(a)(1) of the Act)

- (a) The State submits to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of section 101 of the Act and a State plan supplement for supported employment services that meets the requirements of section 625 of the Act on the same date that the State submits a State plan under section 112 of the Workforce Investment Act of 1998.
- (b) If the State submits a State unified plan under section 501(b) of the Workforce Investment Act of 1998 that includes the State plan for vocational rehabilitation services and its supplement for supported employment services in the unified plan, the State submits to the Commissioner the State plan for vocational

EFFECTIVE DATE: October 1, 2006

rehabilitation services and its supplement for supported employment services on the same date that the State submits its unified plan under section 501(b) of the Workforce Investment Act of 1998.

- (c) The State submits only those policies, procedures, or descriptions required under this State plan and its supplement that have not been previously submitted to and approved by the Commissioner of the Rehabilitation Services Administration.
- (d) The State submits to the Commissioner at such time and in such manner as the Secretary determines to be appropriate, reports containing annual updates of the information relating to the:
 - (1) comprehensive system of personnel development;
 - (2) assessments, estimates, goals and priorities, and reports of progress;
 - (3) innovation and expansion activities; and
 - (4) requirements under title I, part B or title VI, part B of the Act.
- (e) The State plan and its supplement are in effect subject to the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law, including regulations, an interpretation of the Act by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of the Act, until the State submits and receives approval of a new State plan or plan supplement.

3.2 Supported employment plan. (Sections 101(a)(22) and 625(a) of the Act; 34 CFR 361.34 and 363.10)

The State has an acceptable plan for carrying out part B of title VI of the Act, including the use of funds under that part to supplement funds made available under part B of title I of the Act to pay for the cost of services leading to supported employment.

EFFECTIVE DATE: October 1, 2006

SECTION 4: ADMINISTRATION OF THE STATE PLAN**4.1 Designated State agency and designated State unit.** (Sections 101(a)(2) of the Act; 34 CFR 361.13)**(a) Designated State agency.**

(1) There is a State agency designated as the sole State agency to administer the State plan, or to supervise its administration in a political subdivision of the State by a sole local agency.

(2) The designated State agency is:

_____ primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

X not primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities.

(3) In American Samoa, the designated State agency is the Governor.

(b) Designated State unit.

(1) If the designated State agency is not primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, the State agency includes a vocational rehabilitation bureau, division, or other organizational unit that:

(A) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the designated State agency's vocational rehabilitation program, including those responsibilities specified in subparagraph (5) of this paragraph of the State plan;

EFFECTIVE DATE: October 1, 2006

- (B) has a full-time director;
- (C) has a staff, at least 90 percent of whom are employed full time on the rehabilitation work of the organizational unit;
- (D) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency; and
- (E) at a minimum, has the following responsibilities that cannot be delegated to any other agency or individual:
 - (i) all decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of services;
 - (ii) a determination that an individual has ended participation in the vocational rehabilitation program and achieved an employment outcome after receiving vocational rehabilitation services;
 - (iii) policy formulation and implementation; and
 - (iv) allocation and expenditure of vocational rehabilitation funds.

(2) The name of the designated State unit is Disability Services Division.

4.2 State independent commission or state rehabilitation council. (Sections 101(a)(21) and 105 of the Act; 34 CFR 361.16 and .17)

The State plan must contain one of the following two assurances.

EFFECTIVE DATE: October 1, 2006

- (a) The designated State agency is an independent commission that:
- (1) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;
 - (2) is consumer-controlled by persons who:
 - (A) are individuals with physical or mental impairments that substantially limit major life activities; and
 - (B) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;
 - (3) includes family members, advocates, or other representatives, of individuals with mental impairments; and
 - (4) undertakes the functions set forth in section 105(c)(4) of the Act;
- or**
- (b) X The State has established a State Rehabilitation Council that meets the criteria set forth in section 105 of the Act and the designated State unit:
- (1) jointly with the Council develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council, consistent with the provisions of section 101(a)(15) of the Act and section 4.12 of this State plan;

EFFECTIVE DATE: October 1, 2006

- (2) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;
- (3) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council, the review and analysis of consumer satisfaction, and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and
- (4) transmits to the Council:
 - (A) all plans, reports, and other information required under title I of the Act to be submitted to the Secretary;
 - (B) all policies and information on all practices and procedures of general applicability provided to or used by rehabilitation personnel in carrying out this State plan; and
 - (C) copies of due process hearing decisions issued under title I of the Act, which are transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.
- (c) ***If the designated State unit has a State Rehabilitation Council, Attachment 4.2(c)*** provides a summary of the input provided by the Council consistent with the provisions identified in subparagraph (b)(3) of this subsection of the State plan, the response of the designated State unit to the input and recommendations, and explanations for the rejection of any input or any recommendation.

4.3 Consultations regarding the administration of the state plan. (Section 101(a)(16)(B) of the Act; 34 CFR 361.21(a))

The designated State agency takes into account, in connection with matters of general policy arising in the administration of the plan, the views of:

- (a) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals' representatives;
- (b) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;
- (c) providers of vocational rehabilitation services to individuals with disabilities;
- (d) the Director of the client assistance program; and
- (e) the State Rehabilitation Council, if the State has such a Council.

4.4 Non-federal share. (Section 101(a)(3) of the Act; 34 CFR 80.24 and 361.60(b))

The non-Federal share of the cost of carrying out this State plan is 21.3 percentum and it is provided through the financial participation by the State, or if the State elects, by the State and local agencies.

4.5 Local administration. (Section 101(a)(2)(A) of the Act; 34 CFR 361.15)

- (a) The State plan provides for local administration and each local agency is under the supervision of the designated State unit and is the sole local agency responsible for the administration of the program within the political subdivision that it serves.

Yes No X

EFFECTIVE DATE: October 1, 2006

- (b) **IF YES, Attachment 4.5** identifies each local agency and describes the methods each local agency uses to administer the vocational rehabilitation program in accordance with this State plan.

4.6 Statewideness and waivers of statewideness. (Sections 101(a)(2)(A) and (4)(A) of the Act; 34 CFR 361.25 and .26)

The State plan is in effect in all political subdivisions of the State, except in the case when:

- (a) The State unit is providing services in one or more political subdivisions of the State that increase services or expand the scope of services that are available statewide under this State plan and the:
- (1) non-Federal share of the cost of these services is met from funds provided by a local public agency, including funds contributed to a local public agency by a private agency, organization, or individual; and
 - (2) services are likely to promote the vocational rehabilitation of substantially larger numbers of individuals with disabilities or of individuals with disabilities with particular types of impairments.
 - (3) If the State is providing services that meet the provisions of subparagraphs (a)(1) and (2) of this subsection, **Attachment 4.6(a)(3)** requests a waiver of statewideness in accordance with the requirements in 34 CFR 361.26(b); or
- (b) Earmarked funds are used toward the non-Federal share and such funds are earmarked for particular geographic areas within the State contingent on the State notifying the Commissioner that it cannot provide the full non-Federal share without the use of such earmarked funds.

EFFECTIVE DATE: October 1, 2006

4.7 Shared funding and administration of joint programs. (Section 101(a)(2)(A)(ii) of the Act; 34 CFR 361.27)

- (a) The designated State agency is carrying out a joint program involving shared funding and administrative responsibility with another State agency or a local public agency to provide services to individuals with disabilities.

Yes___ No X

- (b) ***IF YES, Attachment 4.7(b)*** describes the:

- (1) nature and scope of the joint program;
- (2) services to be provided;
- (3) respective roles of each participating agency in the provision of services and their administration; and
- (4) share of the costs to be assumed by each agency.

- (c) If the joint program provides services in one or more political subdivisions of the State, the State requests a waiver of statewideness in accordance with the provisions of 34 CFR 361.26 and subparagraph 4.6(a)(3) of this State plan subsection.

EFFECTIVE DATE: October 1, 2006

4.8 Third-party cooperative arrangements involving funds from other public agencies (Section 12 of the Act; 34 CFR 361.28)

- (a) The designated State unit has entered into a third-party cooperative arrangement for providing or administering vocational rehabilitation services with another State agency or a local public agency that is furnishing part or all of the non-Federal share.

Yes No X

(b) ***IF YES:***

- (1) The services provided by the cooperating agency are not the customary or typical services provided by that agency but are new services that have a vocational rehabilitation focus or are existing services that have been modified, adapted, expanded, or reconfigured to have a vocational rehabilitation focus.
- (2) The services provided by the cooperating agency are only available to applicants for, or recipients of, services from the designated State unit.
- (3) Program expenditures and staff providing services under the cooperative arrangement are under the administrative supervision of the designated State unit.
- (4) All State plan requirements, including the State's order of selection, if an order is in effect, apply to all services provided under the cooperative program.
- (c) If the third-party cooperative program provides services in one or more political subdivisions of the State, the State requests a waiver of statewideness in accordance with the provisions of 34 CFR 361.26 and subparagraph 4.6(a)(3) of this State plan.

EFFECTIVE DATE: October 1, 2006

4.9 Cooperation, collaboration, and coordination. (Sections 101(a)(11) of the Act; 34 CFR 361.22, .23 and .24)**(a) Cooperative agreements with other components of statewide workforce investment systems.**

The designated State agency has cooperative agreements with other entities that are components of the statewide workforce investment system of the State in accordance with the provisions of section 101(a)(11)(A) of the Act.

(b) Replication of cooperative agreements.

The designated State agency replicates the cooperative agreement identified in paragraph (a) of this subsection of the State plan at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce investment system.

(c) Interagency cooperation with other agencies and entities.

Attachment 4.9(c) describes the:

- (1)** interagency cooperation with, and utilization of the services and facilities of the Federal, State, and local agencies and programs, including programs carried out by the Under Secretary for Rural Development of the United States Department of Agriculture and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system;
- (2)** coordination, consistent with the requirements of paragraph 4.9(d) of this subsection, with education officials to facilitate the transition of students with disabilities from school to the receipt of vocational rehabilitation services;

EFFECTIVE DATE: October 1, 2006

- (3) manner in which the designated State agency establishes cooperative agreements with private non-profit vocational rehabilitation service providers, consistent with the requirements of paragraph 5.6(b) of the State plan; and,
- (4) efforts of the designated State agency to identify and make arrangements, including entering into cooperative agreements, with other State agencies and entities with respect to the provision of supported employment and extended services for individuals with the most significant disabilities, consistent with the requirements of subsection 7.5 of the supplement to this State plan.

(d) Coordination with education officials.

Plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities that are designed to facilitate the transition of the students who are individuals with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under this State plan are described in **Attachment 4.9(c)(2)** which also includes information on a formal interagency agreement with the State educational agency that, at a minimum, provides for:

- (1) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
- (2) transition planning by personnel of the designated State agency and the educational agency for students with disabilities that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act;
- (3) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

EFFECTIVE DATE: October 1, 2006

(4) procedures for outreach to and identification of students with disabilities who need transition services.

(e) **Coordination with statewide independent living council and independent living centers.**

The designated State unit, the Statewide Independent Living Council established under section 705 of the Act, and the independent living centers described in part C of title VII of the Act within the State have developed working relationships and coordinate their activities.

(f) **Cooperative agreement with recipients of grants for services to American Indians.**

(1) There is in the State a recipient(s) of a grant under part C of title I of the Act for the provision of vocational rehabilitation services for American Indians who are individuals with disabilities residing on or near Federal and State reservations.

Yes X No _____

(2) **IF YES**, the designated State agency has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C of title I of the Act. The agreement(s) describes strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including:

(A) strategies for interagency referral and information sharing that assist in eligibility determinations and the development of individualized plans for employment;

(B) procedures for ensuring that American Indians who are individuals with disabilities and who are living near a reservation or tribal service area are provided vocational rehabilitation services; and

EFFECTIVE DATE: October 1, 2006

- (C) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

(g) Reciprocal referral services with a separate agency for individuals who are blind.

In those States in which there is a separate designated State unit for individuals who are blind and also a designated State unit for all other individuals with disabilities, the two State units:

- (1) have established reciprocal referral services;
- (2) use each other's services and facilities to the extent feasible;
- (3) jointly plan activities to improve services in the State for individuals with multiple impairments, including visual impairments; and
- (4) otherwise cooperate to provide more effective services, including, if appropriate, entering into a written cooperative agreement.

4.10 Methods of administration. (Sections 101(a)(6) of the Act; 34 CFR 361.12, .19 and .51(a) and (c))

(a) General.

The State agency employs methods of administration found by the Commissioner to be necessary for the proper and efficient administration of this State plan.

EFFECTIVE DATE: October 1, 2006

(b) Employment of individuals with disabilities.

The designated State agency and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under title I of the Act, take affirmative action to employ and advance in employment qualified individuals with disabilities covered under and on the same terms and conditions as set forth in section 503 of the Act.

(c) Written standards for providers of services.

The designated State agency has established, maintains, makes available to the public, and implements written minimum standards for the various types of providers used by the designated State unit in providing vocational rehabilitation services under this State plan.

(d) Facilities.

Facilities used in connection with the delivery of services assisted under this State plan comply with the provisions of the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved on August 12, 1968 (commonly known as the "Architectural Barriers Act of 1968"), with section 504 of the Act and with the Americans with Disabilities Act of 1990.

4.11 Comprehensive system of personnel development. (Section 101(a)(7) of the Act; 34 CFR 361.18)

- (a)** The designated State agency has implemented a comprehensive system of personnel development that meets the requirements of section 101(a)(7) of the Act and 34 CFR 361.18.

EFFECTIVE DATE: October 1, 2006

- (b) **Attachment 4.11(b)** describes the designated State agency's policies, procedures and activities to establish and maintain a comprehensive system of personnel development designed to ensure an adequate supply of qualified State rehabilitation professional and paraprofessional personnel for the designated State unit. The description addresses the following requirements:
- (1) collection and analysis on an annual basis of data on qualified personnel needs and personnel development consistent with the provisions of 34 CFR 361.18(a);
 - (2) plan to address the current and projected needs for qualified personnel including the coordination and facilitation of efforts between the designated State unit and institutions of higher education and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities;
 - (3) establishment and maintenance of personnel standards meeting the requirements of 34 CFR 361.18(c) to ensure that personnel, including professionals and paraprofessionals, are adequately trained and prepared, including:
 - (A) standards that are consistent with any national or State-approved or recognized certification, licensing, registration, or, in the absence of these requirements, other comparable requirements that apply to the profession or discipline in which such personnel are providing vocational rehabilitation services; and
 - (B) to the extent that such standards are not based on the highest requirements in the State applicable to a particular profession or discipline, the steps the State is currently taking and the steps the State plans to take to retrain or hire personnel within the designated State unit so that such personnel meet standards that are based on the highest requirements in the State;

EFFECTIVE DATE: October 1, 2006

- (4) standards to ensure the availability of personnel within the designated State unit or other individuals who are, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual;
- (5) staff development to ensure that all personnel employed by the designated State unit receive appropriate and adequate training; and
- (6) coordination of its personnel development system with personnel development under the Individuals with Disabilities Education Act.

4.12 Annual state goals and reports of progress. (Sections 101(a)(15), 105(c)(2) and 625(b)(2) of the Act; 34 CFR 363.11(b))

(a) Assessments and estimates.

- (1) **Attachment 4.12(a)** documents the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, and:
 - (A) describes the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of:
 - (i) individuals with the most significant disabilities, including their need for supported employment services;
 - (ii) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this State plan; and

EFFECTIVE DATE: October 1, 2006

(iii) individuals with disabilities served through other components of the statewide workforce investment system, as identified by such individuals and personnel assisting such individuals through the components.

(B) provides an assessment of the need to establish, develop, or improve community rehabilitation programs within the State.

(2) For any year in which the State revises the assessments, the designated State unit submits to the Commissioner a report containing information regarding revisions to the assessments.

(b) **Annual estimates.**

The designated State agency annually submits **Attachment 4.12(b)** that includes, State estimates of the:

- (1) number of individuals in the State who are eligible for services under this State plan;
- (2) number of such individuals who will receive services provided with funds provided under part B of title I of the Act and under part B of title VI of the Act, including, if the designated State agency uses an order of selection in accordance with paragraph 6.4(c) of this State plan, estimates of the number of individuals to be served under each priority category within the order; and
- (3) costs of the services described in subparagraph (1), including, if the designated State agency uses an order of selection, the service costs for each priority category within the order.

(c) **Goals and priorities.**

- (1) **Attachment 4.12(c)(1)** identifies the goals and priorities of the State in carrying out the vocational rehabilitation and supported employment programs and also identifies any revisions in the goals and priorities for any year the State revises the goals and priorities.

EFFECTIVE DATE: October 1, 2006

(2) **Order of selection.**

- (A) If the State agency is operating on an order of selection, **Attachment 4.12(c)(2)(A)** shows the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services and provides a justification for the order, the service and outcome goals, and the time within which these goals may be achieved for individuals in each priority category consistent with the provisions of paragraph 6.4(c) of this State plan.
- (B) If, however, the agency assures in paragraph 6.4(a) of this State plan that it can provide the full range of services identified in subsection 5.1 of this State plan to all eligible individuals, **Attachment 4.12(c)(2)(B)** satisfies all of the provisions identified in paragraph 6.4(b) of the State plan.

(3) **Goals and plans for distribution of title VI, part B funds.**

Attachment 4.12(c)(3) specifies, consistent with subsection 7.4 of the State plan supplement, the State's goals and priorities with respect to the distribution of funds received under section 622 of the Act for the provision of supported employment services.

(4) **Basis.**

The goals and priorities are based on:

- (A) the analysis of the comprehensive assessment and any revisions in the assessment consistent with the provisions of paragraph 4.12(a) of this State plan;
- (B) the performance of the State on the standards and indicators established under section 106 of the Act; and

EFFECTIVE DATE: October 1, 2006

- (C) other available information on the operation of the vocational rehabilitation and supported employment programs, including reports from the State Rehabilitation Council, if the State has a Council, and the findings of monitoring activities carried out by the Rehabilitation Services Administration.
- (5) In accordance with the provisions of section 101(a)(15)(C)(ii) and (iii) of the Act, the goals and priorities, including any revisions to the goals and priorities, are jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council.

(d) Strategies.

Attachment 4.12(d) describes the strategies, including those identified in section 101(a)(15)(D) of the Act and the innovation and expansion activities of paragraph 4.13(a) of this State plan, the designated State agency will use to:

- (1) address the needs identified in the assessment conducted under paragraph (a) of this subsection and achieve the goals and priorities identified in paragraph (c) of this subsection;
- (2) carryout outreach activities to identify and serve individuals with the most significant disabilities who are minorities consistent with the provisions of subsection 7.6 of the State plan supplement; and
- (3) overcome identified barriers relating to equitable access to and participation of individuals with disabilities in the State Vocational Rehabilitation Services Program and State Supported Employment Services Program.

(e) Evaluation and reports of progress.

EFFECTIVE DATE: October 1, 2006

Attachment 4.12(e) describes the results of an evaluation of the effectiveness of the vocational rehabilitation program, and includes an annual joint report of the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness of the program from the previous year. The description includes:

- (1) an evaluation of the extent to which the goals identified in subparagraph (c) of this subsection plan were achieved;
- (2) an identification of the strategies that contributed to achieving the goals;
- (3) to the extent to which the goals were not achieved, an explanation of the factors that impeded that achievement;
- (4) an assessment of the performance of the State on the standards and indicators established pursuant to section 106 of the Act; and
- (5) a report consistent with paragraph 4.13(c) of this State plan on how the funds reserved for innovation and expansion activities were utilized in the preceding year.

4.13 Innovation and expansion. (Section 101(a)(18) of the Act)

- (a) The designated State agency reserves and uses a portion of the funds allotted to the State under section 110 of the Act:
 - (1) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this State plan, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State identified in paragraphs 4.12(a) and (c) of this State plan; and

EFFECTIVE DATE: October 1, 2006

(2) to support the funding of the State Rehabilitation Council, if the State has such a Council, consistent with the resource plan prepared under section 105(d)(1) of the Act, and the funding of the Statewide Independent Living Council, consistent with the resource plan prepared under section 705(e)(1) of the Act.

(b) **Attachment 4.12(d)** describes how the reserved funds identified in paragraph (a) of this subsection of this State plan will be utilized.

(c) **Attachment 4.12(e)** describes how the reserved funds were utilized in the preceding year.

4.14 State-imposed requirements. (Section 17 of the Act; 34 CFR 361.39)

The designated State unit identifies upon request those regulations and policies relating to the administration or operation of its vocational rehabilitation and supported employment programs that are State-imposed, including any regulations or policy based on State interpretation of any Federal law, regulations, or guidelines.

4.15 Protection, use, and release of personal information. (Sections 12(c) and 101(a)(6)(A) of the Act; 34 CFR 361.38)

The designated State agency and the designated State unit have policies and procedures that are consistent with the provisions in 34 CFR 361.38 to safeguard the confidentiality of all personal information, including photographs and lists of names.

EFFECTIVE DATE: October 1, 2006

4.16 Mediation and impartial due process hearing. (Section 102(c) of the Act)**(a) Fair hearing board.**

There is a fair hearing board, established by the State prior to January 1, 1985, that is authorized under State law to review determinations or decisions made under the Act and to carry out the responsibilities of the impartial hearing officer.

Yes ___ No X

(b) Mediation and review procedures.***IF THE ANSWER TO (a) IS "NO":***

- (1)** The designated State agency has established procedures consistent with the requirements of section 102(c) of the Act for mediation of and procedures for the review through an impartial due process hearing of determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.
- (2)** **Attachment 4.16(b)(2)** contains the procedures for mediation; the procedures for review through an impartial due process hearing; and, the procedures to seek an impartial review of the decision of the hearing officer, including the standards for reviewing decisions of an hearing officer, if the designated State agency has elected to implement such review procedures.

EFFECTIVE DATE: October 1, 2006

IF THE ANSWER TO (a) IS "YES":

- (1) The designated State agency has established procedures consistent with the requirements of section 102(c) of the Act for mediation of determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.
- (2) **Attachment 4.16(b)(2)** contains the procedures for mediation.

4.17 Reports. (Section 101(a)(10) of the Act; 34 CFR 361.40)

- (a) The designated State unit submits reports in the form and level of detail and at the time required by the Commissioner regarding applicants for and eligible individuals receiving services under the State plan.
- (b) Information submitted in the reports provides a complete count, unless sampling techniques are used, of the applicants and eligible individuals in a manner that permits the greatest possible cross-classification of data and ensures the confidentiality of the identity of each individual.

SECTION 5: SCOPE OF THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM**5.1 Scope of vocational rehabilitation services for individuals with disabilities.** (Section 103(a) of the Act)

Vocational rehabilitation services provided under this State plan are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

- (a) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

EFFECTIVE DATE: October 1, 2006

- (b) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d) of the Act and subsection 5.3 of this State plan;
- (c) referral and other services to secure needed services from other agencies through agreements developed under section 101(a)(11) of the Act and subsection 4.9 of this State plan, if such services are not available under this State plan;
- (d) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
- (e) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this State plan unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;
- (f) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A) of the Act and subsection 6.8 of this State plan), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including:
 - (1) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;
 - (2) necessary hospitalization in connection with surgery or treatment;

EFFECTIVE DATE: October 1, 2006

- (3) prosthetic and orthotic devices;
- (4) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;
- (5) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and
- (6) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;
- (g) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;
- (h) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this subsection and needed by the individual to achieve an employment outcome;
- (i) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this subsection;
- (j) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;
- (k) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;
- (l) occupational licenses, tools, equipment, and initial stocks and supplies;

EFFECTIVE DATE: October 1, 2006

- (m) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided under the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;
- (n) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;
- (o) transition services for students with disabilities that facilitate the achievement of the employment outcome identified in the individualized plan for employment;
- (p) supported employment services;
- (q) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and
- (r) specific post-employment services necessary to assist an individual with a disability to retain, regain, or advance in employment.

5.2 Written policies governing the provision of services to individuals with disabilities. (Sections 12(c) and 101(a)(6)(A) of the Act; 34 CFR 361.50)

- (a) The State unit has written policies covering the nature and scope of each of the vocational rehabilitation services specified in section 103(a) of the Act and subsection 5.1 of this State plan and the criteria under which each service is provided.
- (b) The policies are consistent with the provisions in 34 CFR 361.50 and:

EFFECTIVE DATE: October 1, 2006

- (1) ensure that the provision of services is based on the rehabilitation needs of each individual as identified in that individual's individualized plan for employment; and
- (2) do not establish any arbitrary limits on the nature and scope of services to be provided to the individual to achieve an employment outcome.

5.3 Opportunity to make informed choices regarding the selection of services and providers. (Sections 101(a)(19) and 102(d) of the Act)

Applicants and eligible individuals, or, as appropriate, the applicants' representatives or the individuals' representatives, are provided information and support services to assist the applicants and eligible individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 102(d) of the Act.

5.4 Services to American Indians. (Section 101(a)(13) of the Act)

Except as otherwise provided in part C of title I of the Act, the designated State unit provides vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

5.5 Scope of vocational rehabilitation services to groups of individuals with disabilities. (Sections 101(a)(17) and 103(b) of the Act; 34 CFR 361.49, .61 and .62)

- (a) The State plan provides for the following optional vocational rehabilitation services for the benefit of groups of individuals with disabilities.

EFFECTIVE DATE: October 1, 2006

- (1) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a community rehabilitation facility, that are used to provide services to promote integration and competitive employment.

If the State elects to use the authority to construct a facility for a community rehabilitation program, the following requirements are met:

- (A) The Federal share of the cost of construction for facilities for a fiscal year does not exceed an amount equal to 10 percent of the State's allotment under section 110 of the Act for that fiscal year.
- (B) The provisions of section 306 of the Act that were in effect prior to the enactment of the Rehabilitation Act Amendments of 1998 apply to such construction.
- (C) There is compliance with the requirements in 34 CFR 361.62(b) that ensure the use of the construction authority will not reduce the efforts of the designated State agency in providing other vocational rehabilitation services, other than the establishment of facilities for community rehabilitation programs.
- (2) X Telecommunications systems, including telephone, television, satellite, radio, and similar systems, that have the potential for substantially improving service delivery methods of activities described in this section of this State plan and developing appropriate programming to meet the particular needs of individuals with disabilities.
- (3) X Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media; captioned television, films, or video cassettes for individuals who are deaf or hard of hearing; tactile materials for individuals who are deaf-blind; and other special services that provide information through tactile, vibratory, auditory, and visual media.

EFFECTIVE DATE: October 1, 2006

- (4) X Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 and that are seeking to employ individuals with disabilities.
- (5) X Small business enterprises operated by individuals with significant disabilities, the operation of which can be improved by the management services and supervision of the designated State agency, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.
- (A) If the State unit provides small business enterprise services, only individuals with significant disabilities are selected to participate in this supervised program.
- (B) If the State unit sets aside funds from the proceeds of the operation of the small business enterprises, it has a description of the methods used in setting aside funds and the purposes for which funds are set aside.
- (C) Under its small business enterprises, the State unit provides:
- (i) X only the Randolph-Sheppard Vending Facility Program;
- (ii) _____ only a program or programs other than the Randolph-Sheppard Vending Facility Program;
- (iii) _____ both the Randolph-Sheppard Vending Facility Program and another program(s).
- (6) X Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

EFFECTIVE DATE: October 1, 2006

(7) X Other services that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual with a disability.

(b) If the State plan provides for any of these services to groups of individuals with disabilities, the designated State unit has:

- (1) written policies covering the nature and scope of each of the vocational rehabilitation services it provides and the criteria under which each service is provided; and
- (2) information to ensure the proper and efficient administration of those services in the form and detail and at the time required by the Secretary, including:
 - (A) the types of services provided;
 - (B) the costs of those services; and
 - (C) to the extent feasible, estimates of the numbers of individuals benefiting from those services.

5.6 Contracts and cooperative agreements. (Section 101(a)(24) of the Act; 34 CFR 361.31 and .32)

(a) Contracts with for-profit organizations.

The designated State agency has the authority to enter into contracts with for-profit organizations for the purpose of providing, as vocational rehabilitation services, on-the-job training and related programs for individuals with disabilities under part A of title VI of the Act, upon the determination by the designated State agency that such for-profit organizations are better qualified to provide such vocational rehabilitation services than non-profit agencies and organizations.

EFFECTIVE DATE: October 1, 2006

(b) Cooperative agreements with private non-profit organizations.

The manner in which the designated State agency establishes cooperative agreements with private non-profit vocational rehabilitation service providers is described in **Attachment 4.9(c)(3)**.

SECTION 6: ADMINISTRATION OF THE PROVISION OF VOCATIONAL REHABILITATION SERVICES

6.1 Record of services. (Section 101(a)(6)(A) of the Act; 34 CFR 361.47)

The designated State unit maintains for each applicant or eligible individual a record of services that satisfies the requirements of 34 CFR 361.47.

6.2 Referrals and applications. (Sections 101(a)(6)(A) and 102(a)(6) of the Act; 34 CFR 361.41)

- (a)** The designated State unit has standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services. These standards include timelines for making good faith efforts to inform individuals of application requirements and to gather information necessary to initiate an assessment to determine eligibility and priority of services.
- (b)** Once an individual has submitted an application for vocational rehabilitation services, an eligibility determination is made within a reasonable period of time, not to exceed 60 days, unless:

 - (1)** exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or
 - (2)** the designated State unit is exploring an individual's abilities, capabilities, and capacities to perform in work situations under section 102(a)(2)(B) of the Act.

EFFECTIVE DATE: October 1, 2006

6.3 Information and referral services. (Section 101(a)(20) of the Act)

The designated State agency has implemented an information and referral system that is adequate to ensure that individuals with disabilities are provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and are appropriately referred to Federal and State programs, including other components of the statewide workforce investment system in the State.

6.4 Ability to serve all eligible individuals; order of selection for services. (Sections 12(d) and 101(a)(5) of the Act; 34 CFR 361.36)

- (a) The designated State unit is able to provide the full range of services listed in section 103(a) of the Act and subsection 5.1 of this State plan, as appropriate, to all eligible individuals with disabilities in the State who apply for services.

Yes X No _____

- (b) **IF YES**, Attachment 4.12(c)(2)(B) contains an explanation that satisfies the requirements of 34 CFR 361.36(a)(2) or (3) and describes how, on the basis of the designated State unit's projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with significant disabilities within the State, it will:

- (1) continue to provide services to all individuals currently receiving services;
- (2) provide assessment services to all individuals expected to apply for services in the next fiscal year;
- (3) provide services to all individuals who are expected to be determined eligible in the next fiscal year; and

EFFECTIVE DATE: October 1, 2006

(4) meet all program requirements.

(c) **IF NO:**

(1) Individuals with the most significant disabilities are selected for vocational rehabilitation services before other individuals with disabilities.

(2) **Attachment 4.12(c)(2)(A)** contains:

(A) the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services; and

(B) a justification for the order of selection.

(3) Eligible individuals who do not meet the order of selection criteria are provided access to the services provided through the designated State unit's information and referral system implemented under section 101(a)(20) of the Act and subsection 6.3 of this State plan.

6.5 Assessment for determining eligibility and priority for services. (Sections 7(2)(A)(i) and (D), 7(20)(A), 101(a)(12) and 102(a)(1)(A), (2)(B) and (4) of the Act)

(a) To determine whether an individual is eligible for vocational rehabilitation services and the individual's priority under an order of selection for services, if the State is operating under an order of selection, the designated State unit, to the maximum extent possible consistent with the requirements of this State plan, uses existing and current information, including information available from other programs and providers, particularly information provided by education officials and the Social Security Administration, and information provided by the applicant and the family of the applicant.

EFFECTIVE DATE: October 1, 2006

- (b) To the extent that existing information is unavailable or insufficient, the designated State unit provides appropriate assessment activities to obtain necessary additional information to make the determination regarding the applicant's eligibility, and, if applicable, the applicant's priority under an order of selection.
- (c) The State unit's determination of an applicant's eligibility for vocational rehabilitation services is based only on the following requirements.
 - (1) A determination that the applicant has a physical or mental impairment.
 - (2) A determination that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment.
 - (3) A presumption, in accordance with section 102(a)(2)(A) of the Act and paragraph (d) of this subsection of the State plan, that the applicant can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.
 - (4) A determination that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.
- (d) The designated State unit presumes that an applicant who meets the eligibility requirements in subparagraphs (c)(1) and (c)(2) of this subsection of this State plan can benefit in terms of an employment outcome unless the designated State unit can demonstrate by clear and convincing evidence that the applicant is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the individual's disability. In making such a demonstration, the designated State unit first explores the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences consistent with the provisions of sections 7(2)(D) and 102(a)(2)(B) of the Act.

- (e) If there is appropriate evidence that establishes the applicant's eligibility for Social Security benefits under Title II or Title XVI of the Social Security Act, the designated State unit:
- (1) presumes the applicant to be eligible for vocational rehabilitation services under this State plan (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit can demonstrate by clear and convincing evidence that the applicant is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with the provisions of section 102(a)(2) of the Act and paragraph 6.5(d) of this State plan; and
 - (2) considers the applicant to be an individual with a significant disability consistent with the provisions of section 7(21)(A) of the Act.
- (f) In the application of the eligibility criteria, the following requirements are met.
- (1) No duration of residence requirement is imposed that excludes from services under the plan any individual who is present in the State.
 - (2) No applicant or group of applicants is excluded or found ineligible solely on the basis of the type of disability.
 - (3) The eligibility requirements are applied without regard to the age, gender, race, color, creed, or national origin of the applicant.
 - (4) The eligibility requirements are applied without regard to the particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family.

EFFECTIVE DATE: October 1, 2006

6.6 Procedures for ineligibility determination. (Section 102(a)(5) of the Act; 34 CFR 361.43)

If the State unit determines that an applicant is ineligible for vocational rehabilitation services or determines that an individual receiving services under an individualized plan for employment is no longer eligible for services, the State unit:

- (a) makes the determination only after providing an opportunity for full consultation with the individual or, as appropriate, with the individual's representative;
- (b) informs the individual or, as appropriate, the individual's representative, in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the ineligibility determination, including:
 - (1) the reasons for the determination; and
 - (2) the description of the means by which the individual may express, and seek remedy for, any dissatisfaction with the determination, including the procedures for the review by an impartial hearing officer consistent with the provisions of section 102(c) of the Act and subsection 4.16 of this State plan;
- (c) provides the individual with a description of services available from the client assistance program and information on how to contact that program; and
- (d) reviews any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome from the provision of vocational rehabilitation services within 12 months and annually thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative, except when the:

EFFECTIVE DATE: October 1, 2006

- (1) individual has refused the review;
- (2) individual is no longer present in the State;
- (3) individual's whereabouts are unknown; or
- (4) individual's medical condition is rapidly progressive or terminal.

6.7 Closure without ineligibility determination. (Sections 12(c) and 101(a)(6)(A) of the Act; 34 CFR 361.44)

The State unit does not administratively close an applicant's record of services prior to making an eligibility determination unless the:

- (a) applicant declines to participate in, or is unavailable to complete an assessment for determining eligibility and priority for services; and
- (b) State unit has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative to encourage the applicant's participation.

6.8 Availability of comparable services and benefits. (Sections 101(a)(8) and 103(a) of the Act; 34 CFR 361.53)

- (a) Prior to providing any vocational rehabilitation services, except those services identified in paragraph (d) of this subsection, to an eligible individual, or to members of the individual's family, the State unit determines whether comparable services and benefits exist under any other program and whether those services and benefits are available to the individual.
- (b) If comparable services or benefits exist under any other program and are available to the eligible individual at the time needed to achieve the provisions of the individual's individualized plan for employment, the State

EFFECTIVE DATE: October 1, 2006

unit uses those comparable services or benefits to meet, in whole or in part, the cost of vocational rehabilitation services.

- (c) If comparable services or benefits exist under any other program, but are not available to the individual at the time needed to satisfy the provisions of the individual's individualized plan for employment, the State unit provides vocational rehabilitation services until those comparable services and benefits become available.
- (d) The following services are exempt from a determination of the availability of comparable services and benefits:
 - (1) assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;
 - (2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d) of the Act;
 - (3) referral and other services to secure needed services from other agencies through agreements developed under section 101(a)(11) of the Act, if such services are not available under this State plan;
 - (4) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
 - (5) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices; and
 - (6) post-employment services consisting of the services listed under subparagraphs (1) through (5) of this paragraph.

EFFECTIVE DATE: October 1, 2006

- (e) The requirements of paragraph (a) of this subsection also do not apply if the determination of the availability of comparable services and benefits under any other program would interrupt or delay:
- (1) progress of the individual toward achieving the employment outcome identified in the individualized plan for employment;
 - (2) an immediate job placement; or
 - (3) provision of such service to any individual who is determined to be at extreme medical risk, based on medical evidence provided by an appropriate qualified medical professional.
- (f) The Governor of the State in consultation with the designated State vocational rehabilitation agency and other appropriate agencies ensures that there is an interagency agreement or other mechanism for interagency coordination that meets the requirements of section 101(a)(8)(B)(i)-(iv) of the Act between any appropriate public entity, including the State medicaid program, public institution of higher education, and a component of the statewide workforce investment system, and the designated State unit so as to ensure the provision of the vocational rehabilitation services identified in section 103(a) of the Act and subsection 5.1 of this State plan, other than the services identified in paragraph (d) of this subsection, that are included in the individualized plan for employment of an eligible individual, including the provision of such services during the pendency of any dispute that may arise in the implementation of the interagency agreement or other mechanism for interagency coordination.

EFFECTIVE DATE: October 1, 2006

6.9 Participation of individuals in cost of services based on financial need. (Section 12(c) of the Act; 34 CFR 361.54)

- (a) No financial needs test is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:
- (1) assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, consistent with the requirements of sections 7(2)(D) and 102(a)(2)(B) of the Act;
 - (2) assessment for determining vocational rehabilitation needs;
 - (3) counseling and guidance, including information and support services to assist an individual in exercising informed choice;
 - (4) referral and other services to secure needed services from other agencies through cooperative agreements under section 101(a)(11) of the Act and subsection 4.9 of this State plan, if such services are not available under this State plan; and
 - (5) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services.
- (b) The State unit considers the financial need of eligible individuals, or individuals who are receiving services during an exploration of an individual's abilities, capabilities, and capacity to perform in work situations consistent with subparagraph (1) of paragraph (a) of this subsection, in order to determine the extent of the individual's participation in the costs of vocational rehabilitation services.

Yes X No ____

EFFECTIVE DATE: October 1, 2006

(c) **IF YES:**

- (1) The State unit has written policies on the determination of financial need that are consistent with the provisions of 34 CFR 361.54 and these policies:
 - (A) are applied uniformly to all individuals in similar circumstances; and
 - (B) ensure that the level of the individual's participation in the cost of vocational rehabilitation services is:
 - (i) reasonable;
 - (ii) based on the individual's financial need, including the consideration of any disability-related expenses paid by the individual; and
 - (iii) not so high as to effectively deny the individual a necessary service.
- (2) **Attachment 6.9(c)(2)** specifies the services for which the designated State unit has a financial needs test.

6.10 Development of the individualized plan for employment. (Sections 7(2)(B), 101(a)(9), and 102(b)(1) and (2) of the Act)

- (a) The designated State unit conducts an assessment to determine the vocational rehabilitation needs for each eligible individual, including the need for supported employment services, or, if the State is operating under an order of selection, for each eligible individual to whom the State is able to provide services, for the

EFFECTIVE DATE: October 1, 2006

purpose of identifying the provisions to be included in the individualized plan for employment that meets the requirements of section 102(b) of the Act.

- (b) The development of the individualized plan for employment meets the following procedural requirements.
- (1) The individualized plan for employment is developed and implemented in a timely manner subsequent to the determination of the eligibility of the individual for services under this State plan, except if the State is operating under an order of selection, the individualized plan for employment is developed and implemented only for individuals to whom the State is able to provide services.
 - (2) The designated State unit provides to the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, information on the individual's options for the development of the individualized plan for employment, including:
 - (A) information on the availability of assistance, to the extent determined appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized plan for employment for the individual, and the availability of technical assistance in developing all or part of the individualized plan for employment for the individual;
 - (B) a description of the full range of components that must be included in an individualized plan for employment;
 - (C) as appropriate,
 - (i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized plan for employment;
 - (ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

EFFECTIVE DATE: October 1, 2006

- (iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized plan for employment;
 - (D) a description of the rights and remedies available to the eligible individual, including, if appropriate, recourse to mediation and the impartial due process hearing consistent with the provisions of section 102(c) of the Act and subsection 4.16 of this State plan; and
 - (E) a description of the availability of the client assistance program and information about how to contact the program.
- (3) The individualized plan for employment is developed as a written document prepared on forms provided by the designated State unit and is developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, the settings in which the services will be provided, the employment setting, and the methods used to procure the services consistent with the provisions of section 102(d) of the Act.
- (4) The individualized plan for employment is agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit with a copy of the individualized plan for employment provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, of the individual's representative.
- (5) The individualized plan for employment is reviewed at least annually by a qualified vocational rehabilitation counselor and the eligible individual or, as appropriate, the individual's representative and amended, as necessary, by the individual or, as appropriate, the individual's representative, in

EFFECTIVE DATE: October 1, 2006

collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor, as determined to be appropriate by the individual.

- (6) If there are substantive changes in the individualized plan for employment with respect to the employment outcome, the vocational rehabilitation services to be provided, or the providers of the services, such amendments to the individualized plan for employment do not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit.

6.11 Mandatory components of the individualized plan for employment. (Sections 101(a)(9), 102(b)(3), and 625(b)(6)(C),(E), and (F) of the Act)

- (a) Each individualized plan for employment includes, at a minimum, the following mandatory components describing the:
 - (1) specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;
 - (2) specific rehabilitation services that are:
 - (A) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and
 - (B) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual;

EFFECTIVE DATE: October 1, 2006

- (3) timelines for the achievement of the employment outcome and for the initiation of services;
- (4) entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure the services;
- (5) criteria to evaluate progress toward achievement of the employment outcome;
- (6) terms and conditions of the individualized plan for employment, including, as appropriate, information related to the:
 - (A) responsibilities of the designated State unit;
 - (B) responsibilities of the eligible individual, including those related to:
 - (i) the achievement of the employment outcome;
 - (ii) participation, if applicable, in the paying the costs of the plan; and
 - (iii) applying for and securing comparable benefits consistent with the requirements of section 101(a)(8) of the Act and subsection 6.8 of this State plan; and
 - (C) responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as identified in section 101(a)(8) of the Act and subsection 6.8 of this State plan; and
- (7) projected need for post-employment services, as determined to be necessary.

EFFECTIVE DATE: October 1, 2006

(b) The individualized plan for employment for individuals with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate also contains the identification of the:

- (1) extended services needed by the eligible individual; and
- (2) source of the extended services or, to the extent that the source of extended services cannot be identified at the time of the development of the individualized plan for employment, the basis for concluding that there is a reasonable expectation that extended services will become available.

6.12 Annual review of individuals in extended employment or other employment under special certificate provisions of the fair labor standards act of 1938. (Section 101(a)(14) of the Act)

(a) The designated State unit:

- (1) conducts an annual review and reevaluation of the status of each individual with a disability served under this State plan who has achieved an employment outcome either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the achievement of the outcome (and annually thereafter if requested by the individual or, if appropriate, the individual's representative), to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment; and
- (2) makes maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individuals described in subparagraph (a)(1) in engaging in competitive employment.

(b) The individual with a disability, or, if appropriate, the individual's representative has input into the review and reevaluation, and acknowledges through sign-off that such review and reevaluation have been conducted.

EFFECTIVE DATE: October 1, 2006

STATE PLAN SUPPLEMENT FOR THE STATE SUPPORTED EMPLOYMENT SERVICES PROGRAM**SECTION 7: PROGRAM ADMINISTRATION****7.1 Designated state agency.** (Section 625(b)(1) of the Act; 34 CFR 363.11(a))

The designated State agency for vocational rehabilitation services identified in subsection 1.2 of the title I State plan is the State agency designated to administer the State Supported Employment Services Program authorized under title VI, part B of the Act.

7.2 Statewide assessment of supported employment services needs. (Section 625(b)(2) of the Act; 34 CFR 363.11(b))

Attachment 4.12(a) describes the results of the comprehensive, statewide needs assessment conducted under section 101(a)(15)(a)(1) of the Act and subparagraph 4.12(a)(1) of the title I State plan with respect to the rehabilitation needs of individuals with significant disabilities and the need for supported employment services, including needs related to coordination.

7.3 Quality, scope, and extent of supported employment services. (Section 625(b)(3) of the Act; 34 CFR 363.11(c) and .50(b)(2))

Attachment 7.3 describes the quality, scope, and extent of supported employment services to be provided to individuals with the most significant disabilities who are eligible to receive supported employment services.

7.4 Goals and plans for distribution of title VI, part B funds. (Section 625(b)(3) of the Act; 34 CFR 363.11(d) and .20)

EFFECTIVE DATE: October 1, 2006

Attachment 4.12(c)(3) identifies the State's goals and plans with respect to the distribution of funds received under section 622 of the Act.

7.5 Evidence of collaboration with respect to supported employment services and extended services.
(Sections 625(b)(4) and (5) of the Act; 34 CFR 363.11(e))

Attachment 4.9(c)(4) describes the efforts of the designated State agency to identify and make arrangements, including entering into cooperative agreements, with other State agencies and other appropriate entities to assist in the provision of supported employment services and other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services.

7.6 Minority outreach. (34 CFR 363.11(f))

Attachment 4.12(d)(2) describes the designated State agency's outreach procedures for identifying and serving individuals with the most significant disabilities who are minorities.

7.7 Reports. (Sections 625(b)(8) and 626 of the Act; 34 CFR 363.11(h) and .52)

The designated State agency submits reports in such form and in accordance with such procedures as the Secretary may require and collects the information required by section 101(a)(10) of the Act separately for individuals receiving supported employment services under part B of title VI and individuals receiving supported employment services under title I of the Act.

SECTION 8: FINANCIAL ADMINISTRATION

8.1 Five percent limitation on administrative costs. (Section 625(b)(7) of the Act; 34 CFR 363.11(g)(8))

The designated State agency expends no more than five percent of the State's allotment under section 622 of the Act for administrative costs in carrying out the State Supported Employment Services Program.

EFFECTIVE DATE: October 1, 2006

8.2 Use of funds in providing services. (Sections 623 and 625(b)(6)(A) and (D) of the Act; 34 CFR 363.6(c)(2)(iv), .11(g)(1) and (4))

- (a) Funds made available under title VI, part B of the Act are used by the designated State agency only to provide supported employment services to individuals with the most significant disabilities who are eligible to receive such services.
- (b) Funds provided under title VI, part B are used only to supplement, and not supplant, the funds provided under title I of the Act, in providing supported employment services specified in the individualized plan for employment.
- (c) Funds provided under part B of title VI or title I of the Act are not used to provide extended services to individuals who are eligible under part B of title VI or title I of the Act.

SECTION 9: PROVISION OF SUPPORTED EMPLOYMENT SERVICES

9.1 Scope of supported employment services. (Sections 7(36) and 625(b)(6)(F) and (G) of the Act; 34 CFR 363.11(g)(6) and (7))

- (a) Supported employment services are those services as defined in section 7(36) of the Act.
- (b) To the extent job skills training is provided, the training is provided on-site.
- (c) Supported employment services include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities.

EFFECTIVE DATE: October 1, 2006

9.2 Comprehensive assessments of individuals with significant disabilities. (Section 625(b)(6)(B); 34 CFR 363.11(g)(2))

The comprehensive assessment of individuals with significant disabilities, including the assessment of rehabilitation, career, and employment needs, conducted under section 102(b)(1)(A) of the Act and paragraph 6.10(a) of this State plan and funded under title I of the Act includes consideration of supported employment as an appropriate employment outcome.

9.3 Individualized plan for employment. (Sections 102(b)(3)(F) and 625(b)(6)(C) and (E) of the Act; 34 CFR 363.11(g)(3) and (5))

- (a) An individualized plan for employment that meets the requirements of section 102(b) of the Act and subsections 6.10 and .11 of this State plan is developed and updated using funds under Title I.
- (b) The individualized plan for employment:
 - (1) specifies the supported employment services to be provided;
 - (2) describes the expected extended services needed; and
 - (3) identifies the source of extended services, including natural supports, or, to the extent that it is not possible to identify the source of extended services at the time the individualized plan for employment plan is developed, a statement describing the basis for concluding that there is a reasonable expectation that sources will become available.
- (c) Services provided under an individualized plan for employment are coordinated with services provided under other individualized plans established under other Federal or State programs.

EFFECTIVE DATE: October 1, 2006

ATTACHMENTS REQUIRED OF ALL AGENCIES

Attachment 4.9(c): Cooperation and Coordination with Other Agencies and Other Entities

- (1) Cooperation with Agencies That Are Not in the Statewide Workforce Investment System and with Other Entities
- (2) Coordination with Education Officials
- (3) Cooperative Agreements with Private Non-profit Vocational Rehabilitation Service Providers
- (4) Evidence of Collaboration Regarding Supported Employment Services and Extended Services

Attachment 4.11(b): Comprehensive System of Personnel Development

Attachment 4.12 Assessments; Estimates; Goals and Priorities; Strategies; and Progress Reports

- (a): Results of Comprehensive Statewide Assessment of the Rehabilitation Needs of Individuals with Disabilities and Need to Establish, Develop, or Improve Community Rehabilitation Programs
- (b): Annual Estimates of Individuals to Be Served and Costs of Services
- (c)(1): State's Goals and Priorities
- (c)(3): Goals and Plans for Distribution of Title VI, Part B Funds
- (d): State's Strategies and Use of Title I Funds for Innovation and Expansion Activities
 - (1) To Address Needs Identified in the Comprehensive Assessment and to Achieve Identified Goals and Priorities
 - (2) To Carryout Outreach Activities to Identify and Serve Individuals with the Most Significant Disabilities Who are Minorities

EFFECTIVE DATE: October 1, 2006

- (3) To Overcome Identified Barriers Relating to Equitable Access to and Participation of Individuals with Disabilities in the State Vocational Rehabilitation Services Program and the State Supported Employment Services Program.
- (e): Evaluation and Report of Progress in Achieving Identified Goals and Priorities and Use Of Title I Funds for Innovation and Expansion Activities

Attachment 4.16(b)(2): Mediation and Impartial Due Process Hearing Procedures

Attachment 7.3: Quality, Scope, and Extent of Supported Employment Services

ATTACHMENTS CONTINGENT ON OPTIONS SELECTED

The following attachments identified by an "X" are also submitted as part of the State plan.

- Attachment 4.2(c): Summary of Input and Recommendations of the State Rehabilitation Council; Response of the Designated State Unit; and Explanations for Rejection of Input or Recommendations
- Attachment 4.5: Local Administration
- Attachment 4.6(a)(3): Request for Waiver of Statewideness
- Attachment 4.7(b): Shared Funding and Administration of Joint Program
- Attachment 4.12(c)(2)(A): Order of Selection
- Attachment 4.12(c)(2)(B): Explanation to Support the Decision Not to Establish an Order of Selection
- Attachment 6.9(c)(2): Services Subject to Financial Needs Test

EFFECTIVE DATE: October 1, 2006

STATE North Dakota GENERAL _____ BLIND _____ COMBINED X

PAGE 57

EFFECTIVE DATE: October 1, 2006